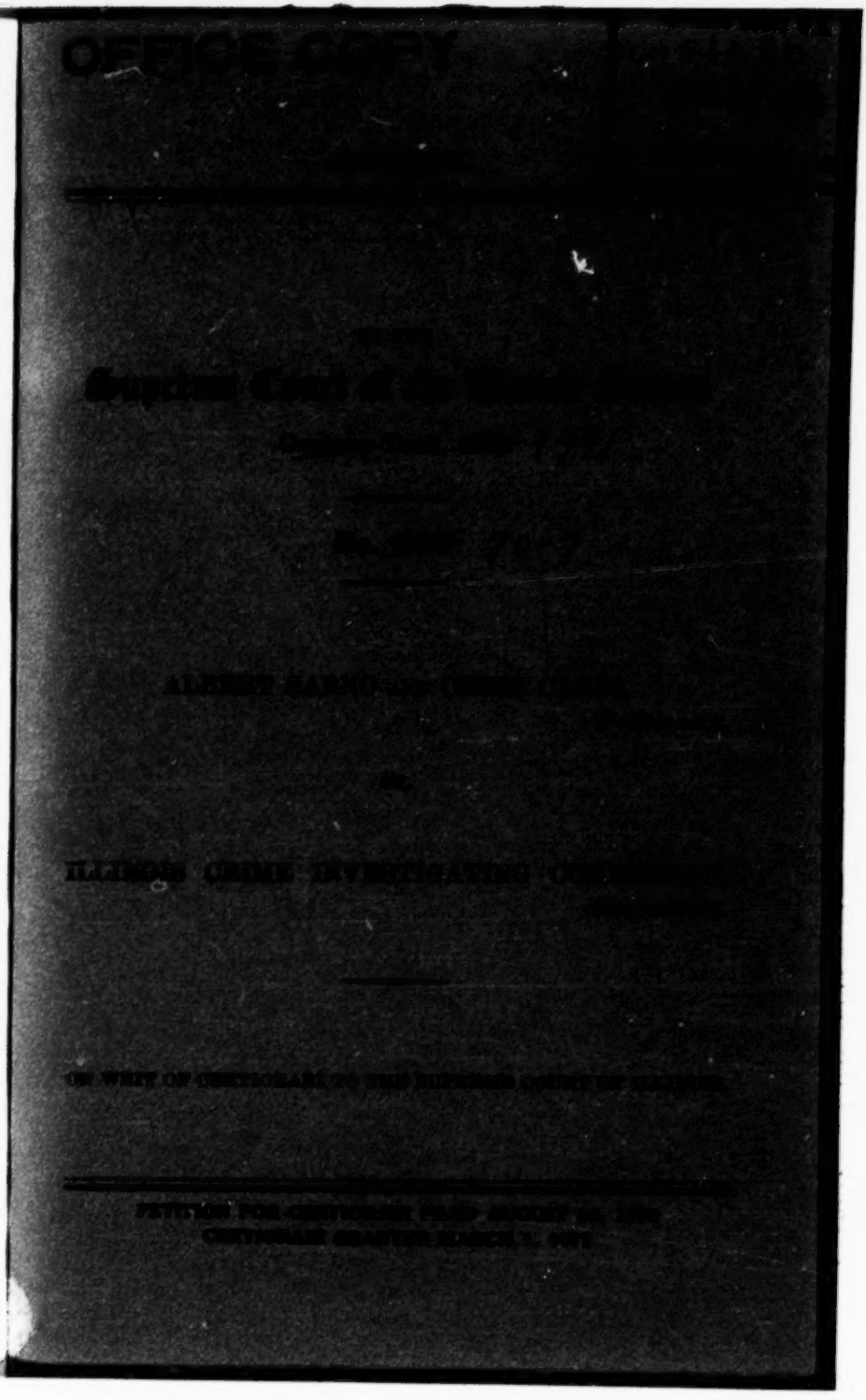


IN THE

Supreme Court of the United States

OCTOBER TERM, 1970.

No. 565

ALBERT SARNO AND CHRIS CARDI,
Petitioners,

vs.

ILLINOIS CRIME INVESTIGATING COMMISSION,
Respondent.

ON WRIT OF CERTIORARI TO THE SUPREME COURT OF ILLINOIS.

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[3-53] On January 20, 1966, Plaintiff-Petitioner, Illinois Crime Investigating Commission, filed a Petition in the Circuit Court of Cook County, Illinois, County Department—Law Division, No. 66 L 1111, entitled *Illinois Crime Investigating Commission* v. *Fiore Buccieri, Chris Cardi, Patsy Ricciardi, Albert Sarno et al.*, alleging that the Illinois Crime Investigating Commission was created by an Act of the General Assembly of the State of Illinois with powers and duties provided in Chapter 38, Sections 203-1 through and including 203-17; that the legislative intent, relative to the Act was (a) to set up adequate facilities for investigating and establishing the facts and general background relating to organized crime and to individual crimes insofar as they have a bearing on organized crime, whether the act or intent constituting the same, or both, occurs within or without the State so long as such organized crime or individual crimes affect the public safety, public peace, public health, public morals, public welfare or public justice of the State; (b) to evaluate the extent to which organized crime exists within the borders of the State, and the degree of efficiency of law enforcement agencies in dealing with it; and (c) to make such facts, general background and evaluation available to the legislative, executive, judicial and administrative bodies and officials of the State, to the end that they may better perform their respective functions in preserving the public safety, public peace, public health, public morals, public welfare and public justice of the State; that pursuant to the Act, defendants, including Chris Cardi and Albert Sarno, were

served with subpoenas to testify before the Commission; that the Commission had adopted Specific Resolution No. 8, wherein it was stated that it was the purpose of the Commission to (1) investigate and establish the facts and general background relating to organized crime and to individual crimes, insofar as they may have a bearing on organized crime; and (2) to evaluate the extent to which organized crime exists within the borders of the State of Illinois and the degree of efficiency of law enforcement agencies in dealing with it and to make such facts, general background, and evaluation available to the General Assembly for the purpose of future legislation if the same should be deemed advisable; and said Resolution further resolved that the Commission would conduct public hearings "for the purpose of determining the extent to which organized criminal elements are involved in the County of Cook, in the State of Illinois, in the 'loan shark' or 'juice' racket, and related events and 'persons' as defined in Chapter 38 Ill. Rev. Stat. Section 842, according to the powers set forth in Chapter 38 Ill. Rev. Stat. Sections 848 through 854."

The defendants were ordered to appear before the Commission and refused to appear. They appealed this order to the Supreme Court of Illinois.

[67-68] On January 19, 1967, in the following entitled cause: *Illinois Crime Investigating Commission, Appellee* v. *Fiore Buccieri, Frank Buccieri, Chris Cardi, Dominick Carzoli, Arthur Cowan, Joseph Gagliano, Joseph Grieco, Peter Ori, Lenny Patrick, Patsy Ricciardi, Albert Sarno, and Anthony Spilotro,* the Illinois Supreme Court affirmed the trial court and ordered that the cause be remanded to the Circuit Court of Cook County to enable it to direct defendants' appearance before the Commission on such future date as

may be appropriate. Decision reported at 36 Ill. 2d 556 (1967).

[78-84] On February 8, 1968, pursuant to notice, the presiding judge of the Circuit Court entered an order requiring Defendants, Chris Cardi and Albert Sarno, to appear and attend before the Illinois Crime Investigating Commission on February 24, 1968. (Title omitted in printing.)

On February 24, 1968, the defendants appeared before the Commission and the following questions were propounded and answered:

[93] INTERROGATION OF CHRIS CARDI.

Mr. O'Connor: Q. Mr. Cardi, what is your address?

A. 2025 North 77th Court, Elmwood.

Q. Elmwood Park, Illinois?

A. That's right.

Q. What is the date and place of your birth?

A. I refuse to answer, I refuse to testify on the grounds that I might incriminate myself.

Q. What is your present occupation?

A. I refuse to testify on the grounds that I might incriminate myself.

[94] Q. Are you married?

A. I refuse to testify on the grounds that I might incriminate myself.

Q. Do you have any children?

A. I refuse to testify on the grounds that I might incriminate myself.

Q. Were you with the Chicago Police Department from April 1, 1958, through May 9, 1962?

A. I refuse to answer on the grounds that I might incriminate myself.

Q. Have you ever been arrested?

A. I refuse to testify on the grounds that I might incriminate myself.

Q. Were you arrested on December 9, 1963 by the Chicago Police Department on charges of kidnapping and assaulting a taxicab driver, Joseph Weisphal?

A. I refuse to testify on the grounds that I might incriminate myself.

Q. Was your actual occupation, from 1963 to the present time, juice collector or enforcer?

A. I refuse to testify on the grounds that I might incriminate myself.

Q. Was your principal employer at that time Willie Messino?

[95] A. I refuse to testify on the grounds that I might incriminate myself.

Q. Did you also work as a juice collector for Joseph Gagliano?

A. I refuse to testify on the grounds that I might incriminate myself.

Q. Do you know Jackie "The Lackey" Cerone?

A. I refuse to testify on the grounds that I might incriminate myself.

Q. Is he over or under Willie Messino in the juice racket?

A. I refuse to testify on the grounds that I might incriminate myself.

Q. Does Joseph Gagliano have any business connection with you?

A. I refuse to answer on the grounds that I might incriminate myself.

Q. As a matter of fact, from 1963 to 1966, didn't you make juice collections from over one hundred persons in the City of Chicago and County of Cook and State of Illinois?

A. I refuse to testify on the grounds that I might incriminate myself.

Q. Did these payments include repayment of both
[96] principal and interest, or were the payments interest only?

A. I refuse to testify on the grounds that I might incriminate myself.

Q. How much of the juice collections which you made during this period were retained by yourself and how much turned over to your superiors?

A. I refuse to testify on the grounds that I might incriminate myself.

Q. Were you present at the hearings that this Commission held in January of 1966 at which certain witnesses testified before the Commission concerning their payments of juice loans?

A. I refuse to testify on the grounds that I might incriminate myself.

Q. Were you present at the time that a witness identified as Mr. Boyd testified that he was introduced to you by the Grieco brothers, and that through you he obtained a juice loan?

A. I refuse to testify on the grounds that I might incriminate myself.

Q. Are you involved in a business organization known as the Yogi Bear Drive-ins?

A. I refuse to testify on the grounds that I might
[97] incriminate myself.

Q. Are your associates in that one Bruce Carman and one Leo Netzel?

A. I refuse to testify on the grounds that I might incriminate myself.

Q. Is Willie Messino a silent partner in that enterprise?

A. I refuse to testify on the grounds that I might incriminate myself.

Q. Are you picked up at your residence every morning by Joseph Gagliano?

A. I refuse to testify on the grounds that I might incriminate myself.

Q. Do you have any means of gainful employment at the present time?

A. I refuse to testify on the grounds that I might incriminate myself.

Q. Did you file an income tax return for the years 1964, '65 and 1966?

A. I refuse to testify on the grounds that I might incriminate myself.

Q. With what office of the Internal Revenue Service did you file those returns?

A. I refuse to testify on the grounds that I might
[98] incriminate myself.

Q. Are you now or have you ever been connected with a business known as Moon's Sandwich Shop, located at Chicago and Hamlin Avenue? In Chicago?

A. I refuse to testify on the grounds that I might incriminate myself.

Q. Were these premises one of the collection stations which you maintained for picking up your juice loans?

A. I refuse to testify on the grounds that I might incriminate myself.

Q. Have you ever been connected in a business

fashion with Mr. Lucky's Tavern at 7800 Belmont, in Elmwood Park?

A. I refuse to testify on the grounds that I might incriminate myself.

Q. Was that one of your collection stations?

A. I refuse to answer on the grounds that I might incriminate myself.

Q. Did you also require some of your juice customers to meet you in the parking lot of that restaurant?

A. I refuse to testify on the grounds that I might incriminate myself.

[99] Q. Have you been connected with a business known as the Chicago Linoleum and Tile Company at 3816 West Chicago Avenue, in Chicago?

A. I refuse to testify on the grounds that I might incriminate myself.

Q. Was this one of your collection stops?

A. I refuse to testify on the grounds that I might incriminate myself.

Q. Was the Stefano's Restaurant, 2000 West Chicago Avenue, another of your collection stops?

A. I refuse to testify on the grounds that I might incriminate myself.

Q. Did you ever make collections of $200 a week from one Joseph Gillespie on a loan of $2,900?

A. I refuse to testify on the grounds that I might incriminate myself.

Q. Did you make collections from $2,000 a week from a person known as "Doc" on an original loan of $20,000?

A. I refuse to testify on the grounds that I might incriminate myself.

Q. Do you know Bruce Carman?

A. I refuse to testify on the grounds that I might incriminate myself.

[100] Q. Do you know Bruce Carman?

A. I refuse to testify on the grounds that I might incriminate myself.

Q. Did you collect $600 a month from him on a $7,300 juice loan?

A. I refuse to testify on the grounds that I might incriminate myself.

Q. Do you know Charles Tabbert?

A. I refuse to testify on the grounds that I might incriminate myself.

Q. Did you loan $7,000 to Charles Tabbert on or about February 21, 1963?

A. I refuse to testify on the grounds that I might incriminate myself.

Q. How much money were you paid for your services as a collector?

A. I refuse to testify on the grounds that I might incriminate myself.

Q. Were you paid the sums by Willie Messino?

A. I refuse to testify on the grounds that I might incriminate myself.

Q. Were you paid these sums by Joseph Gagliano?

A. I refuse to testify on the grounds that I might incriminate myself.

[101] Q. Were you paid on a salary or commission basis?

A. I refuse to testify on the grounds that I might incriminate myself.

Q. During the period January 1, 1963 to date what has been your gainful occupation?

A. I refuse to testify on the grounds that I might incriminate myself.

Q. Have you been frequenting the Bar Nazionale located on 3854 West Chicago Avenue?

A. I refuse to testify on the grounds that I might incriminate myself.

Q. Do you meet at that place with Joseph, Joe "Gags," Gagliano?

A. I refuse to testify on the grounds that I might incriminate myself.

Q. In December of 1967 did you accompany Mr. Gagliano from that bar to the Garfield Park Community Hospital?

A. I refuse to testify on the grounds that I might incriminate myself.

Q. What was the purpose of your visit to the Garfield Park Community Hospital at that time?

A. I refuse to testify on the grounds that I might incriminate myself.

[102] Q. A Mr. White testified at our previous hearings that he made several loans from Willie Messino which he had to pay interest of ten percent a week until he was able to pay the full principal in a lump sum. Mr. White further testified, in the transcript of our public hearings, that on some of the occasions when he made payment to Messino, Messino was accompanied by yourself and Albert Sarno. Is that true?

A. I refuse to testify on the grounds that I might incriminate myself.

Q. Do you know Albert Sarno?

A. I refuse to testify on the grounds that I might incriminate myself.

Q. Are you associated in any business venture with Albert Sarno?

A. I refuse to testify on the grounds that I might incriminate myself.

Q. Are you associated in any business venture with Fiore or "Fifi" Buccieref?

A. I refuse to testify on the grounds that I might incriminate myself.

Q. Are you associated in any business venture with Frank Buccieref?

A. I refuse to testify on the grounds that I might
[103] incriminate myself.

Q. Did you have any interest recorded or not recorded in the Vic Damone Pizza Company?

A. I refuse to testify on the grounds that I might incriminate myself.

Q. Did you have any business interest recorded or unrecorded in an organization known as the Independent Factoring Company?

A. I refuse to testify on the grounds that I might incriminate myself.

Q. Is there any question along the line of examination which we have pursued thus far that you would not feel constrained to claim your rights?

A. I refuse to testify on the grounds that I might incriminate myself.

Q. Have you been in the Armed Services of the United States?

A. I refuse to testify on the grounds that I might incriminate myself.

Q. Are you a United States citizen?

A. I refuse to testify on the grounds that I might incriminate myself.

Mr. O'Connor: I have no further questions at this time.

[104] Mr. Siraguso: Q. Mr. Cardi, do you know a man named Ray Finnerman, F-i-n-n-e-r-m-a-n?

A. I refuse to testify on the grounds that I might incriminate myself.

Q. Did you ever extend any loan to him?

A. I refuse to testify on the grounds that I might incriminate myself.

Q. Did anyone ever ask you to collect money from him?

A. I refuse to testify on the grounds that I might incriminate myself.

Q. Did you know that he left his home in Skokie and went to Texas?

A. I refuse to testify on the grounds that I might incriminate myself.

Q. Do you know the reason why he went to Texas?

[105] A. I refuse to testify on the grounds that I might incriminate myself.

[123] INTERROGATION OF ALBERT SARNO.

Mr. O'Connor: Q. What is your present place of residence?

A. I respectfully decline to answer on the grounds that my answer may tend to incriminate me.

Q. When and where were you born?

A. I respectfully decline to answer on the grounds that my answer may tend to incriminate myself.

[124] Q. What is your present occupation?

A. I respectfully decline to answer on the grounds that my answer may incriminate me.

Q. Are you married?

A. I respectfully decline to answer on the grounds that my answer may incriminate myself.

Q. Do you have any children?

A. I respectfully decline to answer on the grounds that my answer may incriminate myself.

Q. Were you a member of the Chicago Police Department from February 16, 1958, to March, 1961?

A. I respectfully decline to answer on the grounds that I may incriminate myself.

Q. Did you resign from the Chicago Police Department or were you discharged after charges?

A. I respectfully decline to answer on the grounds that I may incriminate myself.

Q. Were you arrested by the Federal Bureau of Investigation on April 2, 1962, for theft from interstate shipments?

A. I respectfully decline to answer on the grounds that I may incriminate myself.

Q. Were you arrested on December 9, 1963, by the Chicago Police Department on charges of kidnapping,
[125] assault and robbery of one Joseph Weisphal?

A. I respectfully decline to answer on the grounds that I might incriminate myself.

Q. Were you a juice or usurous interest collector for Willie Messino?

A. I respectfully decline to answer on the grounds that I may incriminate myself.

Q. Did you make loans to various persons on behalf of Willie Messino and Joseph Gagliano?

A. I respectfully decline to answer on the grounds that my answer may incriminate me.

Q. Was it your practice to collect ten percent weekly interest on these loans?

A. I respectfully decline to answer on the grounds I may incriminate myself.

Q. Didn't you in fact make some loans on your own

without the approval of Mr. Messino and Mr. Gagliano?

A. I respectfully decline to answer on the grounds I may incriminate myself.

Q. Did you use as your collection headquarters Moon's Sandwich Shop, formerly located on Chicago and Hamlin Avenue, in Chicago?

A. I respectfully decline to answer on the grounds my answer may tend to incriminate me.

[126] Q. Are you still a juice collector for Willie Messino and Joe Gagliano?

A. I respectfully decline to answer on the grounds that my answer may tend to incriminate me.

Q. At what places in Cook County have your juice customers met you to make their weekly payments?

A. I respectfully decline to answer on the grounds my answer may incriminate me.

Q. Were you present at these hearings in January, 1966, when a witness, Mr. White, testified that he made juice payments to Willie Messino in your presence?

A. I respectfully decline to answer on the grounds my answer may tend to incriminate me.

Q. Were you present at these hearings when, as shown by the public record, the witness Mr. Black testified that he borrowed money from you directly and paid interest at the rate of $10 per hundred per week?

A. I respectfully decline to answer on the grounds that my answer may tend to incriminate me.

Q. At one time when Mr. Black became delinquent in his loan, did you visit his home and make certain threats and allegations to his mother, thereby frightening her?

[127] A. I respectfully decline to answer on the grounds that my answer may incriminate me.

Q. Did Mr. Black make his payment to you at Mr. Lucky's in the 7800 block west on Belmont, in Elmwood Park?

A. I respectfully decline to answer on the grounds my answer may incriminate me.

Q. On one occasion did you exhibit a pistol to Mr. Black and wave it under his face and say to him, "You know what will happen if you don't pay me on time?"

A. I respectfully decline to answer on the grounds my answer may incriminate me.

Q. Did you make a loan to a Mr. James, who testified in the public hearings, that he borrowed money from you at eight percent per week?

A. I respectfully decline to answer on the grounds my answer may incriminate me.

Q. When he fell behind in his payments, did you then raise his interest to ten percent a week, and no credit on principal?

A. I respectfully decline to answer on the grounds my answer may incriminate me.

Q. Did you report to Willie Messino that Mr. James failed to make his payments on time?

[128] A. I respectfully decline to answer on the grounds my answer may incriminate me.

Q. When you made this report, did you then accompany Willie "The Beast" Messino to Mr. James's home and were you present at the time that Mr. Messino threatened Mr. James with a baseball bat?

A. I respectfully decline to answer on the grounds my answer may incriminate me.

Q. Is Mr. James still holding out from you as he testified here in these public hearings?

A. I respectfully decline to answer on the grounds my answer may incriminate me.

Q. Does your brother, Alfonse Sarno, own Mr. Lucky's Tavern or is he the licensee of that premises?

A. I respectfully decline to answer on the grounds my answer may incriminate me.

Q. Have you used the Red Steer Restaurant, at 8800 West Grant Avenue, River Grove, as a place to receive juice payments from your customers?

A. I respectfully decline to answer on the grounds my answer may incriminate me.

Q. Have you also used as a meeting place the cocktail lounge at the Flying Carpet Motel in Rosemont?

A. I respectfully decline to answer on the grounds my answer may tend to incriminate me.

Q. Have you met juice customers at Sam and Sleepy's Tavern at 3800 West Chicago Avenue?

A. I respectfully decline to answer on the grounds my answer may tend to incriminate me.

Q. Did you take your orders directly from Messino or from Joseph Gagliano?

A. I respectfully decline to answer on the grounds that my answer may tend to incriminate me.

Q. Do you know Jack "The Lackey" Cerone?

A. I respectfully decline to answer on the grounds my answer may tend to incriminate me.

Q. Are you employed by him in any way?

A. I respectfully decline to answer on the grounds my answer may tend to incriminate me.

Q. Have you been collecting $80 a week from one Ed Bach of Laverne Avenue in Chicago on an original loan of $480?

A. I respectfully decline to answer on the grounds my answer may tend to incriminate me.

Q. Were you formerly collecting $750 a month from one Larry Greenbaum on an original loan of $5,000?

A. I respectfully decline to answer on the grounds my answer may tend to incriminate me.

[130] Q. Did you know that Greenbaum was an ex-convict?

A. I respectfully decline to answer on the grounds my answer may tend to incriminate me.

Q. Did Greenbaum skip town to avoid his juice payments to you?

A. I respectfully decline to answer on the grounds my answer may tend to incriminate me.

Q. Were you collecting $100 a week from one Philip Marzarello on an original $1,500 loan?

A. I respectfully decline to answer on the grounds my answer may tend to incriminate me.

Q. Is it true that he has escaped from the City to avoid making further juice payments to you?

A. I respectfully decline to answer on the grounds that my answer may tend to incriminate me.

Q. Did you make a collection of $100 a week on principal and $100 a week on interest for 100 weeks from George and Peter Menenexis?

A. I respectfully decline to answer on the grounds my answer may tend to incriminate me.

Q. Do you know Mike Castaldo, who formerly owned the "One Step Beyond" tavern located at Grand Avenue and Oak Park Avenue in Chicago?

A. I respectfully decline to answer on the grounds [131] that my answer may tend to incriminate me.

Q. Did you know what Mike Castaldo had a criminal record?

A. I respectfully decline to answer on the grounds that my answer may tend to incriminate me.

Q. Do you know Joe Donzanelli?

A. I respectfully decline to answer.

Q. Was Donzanelli the liquor licensee of the "One Step Beyond" tavern?

A. I respectfully decline to answer.

Q. Did you collect a total of $2,200 on an original loan of $1,700 from Dave Wasserman of Birchwood Avenue in Chicago?

A. I respectfully decline to answer on the grounds that my answer may tend to incriminate me.

Q. Did you file an income tax return with the Federal Government for the years 1964, 1965 and 1966?

A. I respectfully decline to answer on the grounds that my answer may tend to incriminate me.

Q. What lines of gainful employment have you followed since you left the Chicago Police Department?

A. I respectfully decline to answer on the grounds my answer may tend to incriminate me.

Q. Did you leave the Chicago Police Department as a result of the cleanup instigated by former Superintendent Wilson?

[132] A. I respectfully decline to answer on the grounds that my answer may tend to incriminate me.

Q. Are you presently under indictment or awaiting trial in any court of the United States or of this State?

A. I respectfully decline to answer on the grounds that my answer may tend to incriminate me.

Q. What office of the Internal Revenue Service have you filed your tax returns for the years previously mentioned?

A. I respectfully decline to answer on the grounds my answer may tend to incriminate me.

Mr. Siragusa: Q. Is there any person at all to which you would be responsible?

A. I respectfully decline to answer on the grounds that my answer may tend to incriminate me.

[86-90] On March 21, 1968, the Commission filed a motion in the Circuit Court stating that Defendants, Chris Cardi and Albert Sarno, were ordered to appear and attend before the Commission on the 24th day of February, 1968, and that when they did appear at said hearing they refused to answer questions propounded to them upon the grounds that they believed that their answers might tend to incriminate them. The motion incorporated the questions asked and the answers given by defendants as exhibits. (Title omitted in printing.)

The motion moves the court to enter an order pursuant to Section 14 of the Illinois Crime Investigating Commission Act, approved June 20, 1963, as amended (Ill. Rev. Stat. 1967 Chap. 38 Sec. 203-14), and in accordance with the Illinois Immunity Act (Ill. Rev. Stat. 1967 Chap. 38 Sec. 106-1 through 106-3) releasing the said Chris Cardi and the said Albert Sarno from all liability to be prosecuted or punished on account of any matter to which he shall testify in the matter identified above before the said Commission, except for perjury or contempt of Court; and further moving the Court to order Chris Cardi and Albert Sarno to appear before the Commission and answer such questions as may be put to each of them, including but not limited to questions attached as exhibits.

[136] Letter from the United States Attorney to the Commission dated March 5, 1968, stating that the government had no effective basis for imminent prosecution of the defendants.

[141] March 21, 1968, order entered directing Defendants, Chris Cardi and Albert Sarno, to answer the

foregoing motion within twenty (20) days. (Title omitted in printing.)

[143] On April 9, 1968, defendants filed a motion to dismiss or in the alternative to strike as follows:

MOTION TO DISMISS OR IN THE ALTERNATIVE TO STRIKE.

1. These defendants have been advised by their respective attorneys that any order issued by this Court granting the defendants immunity is a void order and that if the defendants were to rely upon any formal order granting the defendants immunity that they would do so at their own risk of being prosecuted in the future because of the testimony they give or because their testimony gave leads to possible offenses for which they could be convicted.

2. That this Court does not have the power or authority and therefore does not have jurisdiction to grant immunity to the defendants under Chapter 38, Sections 203-13 and 203-14.

[144] 3. Chapter 38, Section 203-14 authorizes this Court to order a person "to answer the question or produce the evidence" and further provides that "he may nevertheless be prosecuted . . . of contempt committed in . . . failing to answer, or not producing, or failing to produce, evidence in accordance with the order." This statute grants no power for this Court to grant immunity.

4. The following excerpt from Chapter 38, Section 203-14: "that person shall not be prosecuted for or on account of any transaction, matter or thing which, in accordance with the order, he may have answered or produced evidence" violates the due process clauses of the Illinois State and Federal Constitutions in that it is incomplete, vague and indefinite in that men of ordi-

nary intelligence must guess at its meaning and differ as to its application. Further, the latter clause is not sufficiently explicit to advise everyone of his rights under the statute and how he will be affected by its operation and requires that the determination of whether because of his testimony he has in fact obtained immunity be decided by another Court at another time after the person has in fact already testified.

5. Chapter 38, Section 203-14 violates the self-incrimination clauses of the Illinois State and Federal Constitutions in that it compels a person to give testimony against himself and the purported immunity is only "on account of any transaction, matter or thing, which, in accordance with the order, he may have answered or produced evidence" and makes no provision for the "fruits of the poisonous tree."

6. • • •

[145] 7. • • •

8. • • •

9. Chapter 38, Section 203-14 further violates the self-incrimination clauses of the Illinois State and Federal Constitutions in that in any subsequent prosecution the burden would be placed upon the defendants to show that they previously testified before the Commission on a "transaction, matter or thing" and that they were being prosecuted "for or on account of" the foregoing. The defendants are thus deprived of a formal order of court granting immunity and would be subject to records of an administrative body being lost or destroyed.

10. • • •

11. • • •

[146] 12. Since, therefore, the Court can merely compel testimony and cannot grant immunity, the tests as set

down in *Malloy* v. *Hogan*, 378 U. S. 1, 84 S. Ct. 1489 (1964); *Hoffman* v. *United States*, 341 U. S. 479, 71 S. Ct. 818 (1951); and *People* v. *Burkert*, 7 Ill. 2d 506, 131 N. E. 2d 495 (1955) apply and should be used by the Court as the standards in interpreting the limits and extent of Chapter 38, Section 203-14.

13. In addition to the fact that Chapter 38, Section 203-14 does not authorize the granting of immunity, it further contains the identical prohibition as was contained in Chapter 38, Section 580a, Illinois Revised Statutes, 1953, the original immunity act in Illinois.

[147] 14. • • •

15. *People* v. *Burkert, supra,* reversed a decision of the Circuit Court of Lake County, Illinois, under the provisions of Chapter 38, Section 580a, Illinois Revised Statutes, 1953, which contains the identical prohibition of Chapter 38, Section 203-14, and, therefore, is still the law that applies in the instant case. The statute which the United States Supreme Court was interpreting in *Murphy* v. *The Waterfront Commission of New York Harbor, supra,* a copy of which is attached hereto and labeled, contains no such prohibition as the statute in question in this case.

[148] 16. The general immunity statute cannot apply since under the terms of Chapter 38, Section 106-1 there must be an investigation before a Grand Jury or trial in a court of record neither of which situation applies to the instant case as is evidenced by an examination of Petitioner's Exhibit C2 of Count I and C4 of Count I.

17. • • •

18. • • •

19. • • •

20. That Chapter 38, Section 203-14 was enacted into law at a time subsequent to the time Chapter 38, Section 106-1 was enacted into law. That Chapter 38, Section 106-1 specifically granted and provided for a formal order granting immunity. That the subsequent
[149] enactment into law of Chapter 38, Section 203-14 in which there is no provision for a formal order granting immunity is an acknowledgment by the Legislature that they did not intend that this Court have the power or authority to enter an order granting these defendants immunity.

WHEREFORE, Defendants Chris Cardi and Albert Sarno pray that the Petition in the above entitled cause be dismissed or in the alternative that the pleadings requesting the Court to grant immunity be stricken.

ANSWER.

Now come Defendants Chris Cardi and Albert Sarno by their Attorneys John J. Cogan and Frank G. Whalen answering the Petition in the event the motion to dismiss or in the alternative to strike be denied and state as follows:

Defendants repeat Paragraphs 1, 2, 3, 4, 5, 6, 7, 8, 9, 10, 11, 12, 13, 14, 15, 16, 17, 18, 19 and 20 of the motion to dismiss or in the alternative to strike and further state:

21. • • •

22. That there are in full force and effect certain statutes of the United States Government providing for criminal penalties for failure to file income tax or for wilfully and fraudulently understating a person's income.

[156-176] On April 22, 1968, the Commission filed a reply to the motion to dismiss or in the alternative to strike.

[179] Order entered April 23, 1968, stating that this matter, along with two (2) similar matters, would be heard en banc by Judge Healy.

[181] July 26, 1968, an order was entered denying defendants' motion to dismiss or in the alternative to strike and ordering defendants to answer the Commission's petition.

[204] On December 27, 1968, defendants filed their answer to the Commission's petition for an order granting immunity to the defendants as follows:

ANSWER TO MOTION FOR ORDER OF IMMUNITY.

* * * * *

AFFIRMATIVE DEFENSES RELIED UPON BY THE DEFENDANTS/RESPONDENTS CHRIS CARDI AND ALBERT SARNO.

Respondents repeated the same allegations contained in their previous motion to dismiss. (A. 19-22)

[218-220] On January 30, 1969, the Court on the motion of the Commission to grant the defendants immunity from prosecution as provided by Section 14 of the Illinois Crime Investigating Commission Act, entered the following order:

NOW THEREFORE THE COURT DOTH ORDER:

1. That the prayer of the Petition be and the same is hereby allowed and each of the said Respondents to-wit, Chris Cardi, Patsy Ricciardi and Albert Sarno is hereby ordered to be and appear before the said Commission on such date or dates and at such place or places as the said Commission may direct, provided that at least 5 days written notice be served upon their respective attorneys, and to then and there answer ~~*such questions and produce such evidence touching*~~

~~*upon the subject matter being investigated, as may be propounded to him, including, but not limited to*~~ the questions previously propounded to him, and attached to the petition.

(The order was prepared by the Commission. The striking was done by the trial court.)

2. The Court doth further order that each of the said Defendants/Respondents be and he is hereby released from all liability to be prosecuted or punished on account of any matter to which he shall testify before the said Commission, except for perjury or contempt of Court by the said Respondents/Defendants before the said Commission.

[245] Pursuant to the order entered on January 30, 1969, Defendant, Chris Cardi, appeared before the Commission on the 28th day of February, 1969, and the following questions were asked and answers given:

INTERROGATION OF CHRIS CARDI.

Mr. Flaum: Q. Mr. Witness, will you state your name, please?

A. I beg your pardon?

Q. Mr. Witness, will you please state your name?

A. Chris Cardi.

Q. Mr. Cardi, what is your address?

A. 2025 North 77th Court, Elmwood Park.

Q. What is the date and place of your birth?

A. I refuse to testify on the grounds that I might incriminate myself.

[246] Co-Chairman Laughlin: The Chair orders and directs you to answer that question, Mr. Cardi.

The Witness: A. I refuse to testify on the grounds that I might incriminate myself.

Co-Chairman Laughlin: You are aware, I am sure, and have been advised by your counsel of the possible consequences of your failure to answer these questions, is that correct?

The Witness: A. I refuse to answer on the grounds that I might incriminate myself.

Co-Chairman Laughlin: Continue.

Mr. Flaum: Q. What is the date and place of your birth?

A. I refuse to testify on the grounds that I might incriminate myself.

Co-Chairman Laughlin: The Chair orders and directs you to answer the question, sir.

The Witness: A. I refuse to testify on the grounds that I might incriminate myself.

1 Mr. Flaum: Q. What is your present occupation?

A. I refuse to testify on the grounds that I might incriminate myself.

Co-Chairman Laughlin: The Chair orders and directs you to answer the question, sir.

[247] The Witness: A. I refuse to testify on the grounds that I might incriminate myself.

2 Mr. Flaum: Q. Were you with the Chicago Police Department from April 1 through May 9, 1962?

A. I refuse to testify on the grounds that I might incriminate myself.

Co-Chairman Laughlin: The Chair orders and directs you to answer the question, sir.

The Witness: A. I refuse to answer on the grounds that I might incriminate myself.

3 Mr. Flaum: Q. Mr. Witness, have you ever been arrested?

A. I refuse to answer on the grounds that I might incriminate myself.

Co-Chairman Laughlin: The Chair orders and directs you to answer the question, sir.

The Witness: A. I refuse to testify on the grounds that I might incriminate myself.

4 Mr. Flaum: Q. Mr. Witness, were you arrested on December 9, 1963, by the Chicago Police Department on charges of kidnapping and assaulting a taxicab driver, Joseph Weisphal?

A. I refuse to answer on the grounds that I might incriminate myself.

[248] Co-Chairman Laughlin: The Chair orders and directs you to answer the question, sir.

The Witness: A. I refuse to answer on the grounds that I might incriminate myself.

5 Mr. Flaum: Q. Mr. Witness, was your actual occupation from 1963 to the present time juice collector or enforcer?

A. I refuse to answer on the grounds that I might incriminate myself.

Co-Chairman Laughlin: The Chair orders and directs you to answer the question, sir.

The Witness: A. I refuse to answer on the grounds that I might incriminate myself.

6 Mr. Flaum: Q. Mr. Witness, was your principal employer at that time Willie Messino?

A. I refuse to answer on the grounds that I might incriminate myself.

Co-Chairman Laughlin: The Chair orders and directs you to answer the question, sir.

The Witness: A. I refuse to answer on the grounds that I might incriminate myself.

7 Mr. Flaum: Q. Did you also work as a juice collector for Joseph Gagliano?

A. I refuse to answer on the grounds that I might incriminate myself.

[249] Co-Chairman Laughlin: The Chair orders and directs you to answer the question, sir.

The Witness: A. I refuse to answer on the grounds that I might incriminate myself.

8 Mr. Flaum: Q. Mr. Witness, do you know Jackie Cerone?

A. I refuse to answer on the grounds that I might incriminate myself.

Co-Chairman Laughlin: The Chair orders and directs you to answer the question, sir.

The Witness: A. I refuse to answer on the grounds that I might incriminate myself.

9 Mr. Flaum: Q. Mr. Witness, is Mr. Cerone over or under Willie Messino in the juice racket?

A. I refuse to answer on the grounds that I might incriminate myself.

Co-Chairman Laughlin: The Chair orders and directs you to answer the question, sir.

The Witness: A. I refuse to answer on the grounds that I might incriminate myself.

10 Mr. Flaum: Q. Mr. Witness, does Joseph Gagliano have any business connection with you?

A. I refuse to answer on the grounds that I might incriminate myself.

[250] Co-Chairman Laughlin: The Chair orders and directs you to answer the question, sir.

The Witness: A. I refuse to answer on the grounds that I might incriminate myself.

11 Mr. Flaum: Q. Mr. Witness, is it a matter of fact that from 1963 to 1966 you made juice collections from over 100 persons in the City of Chicago and County of Cook and State of Illinois?

A. I refuse to answer on the grounds that I might incriminate myself.

Co-Chairman Laughlin: The Chair orders and directs you to answer the question, sir.

The Witness: A. I refuse to answer on the grounds that I might incriminate myself.

12 Mr. Flaum: Q. Mr. Witness, did the payments from such loans include the payment of both principal and interest or were the payments interest only?

A. I refuse to answer on the grounds that I might incriminate myself.

Co-Chairman Laughlin: The Chair orders and directs you to answer the question, sir.

The Witness: A. I refuse to testify on the grounds that my answer may tend to incriminate me.

13 Mr. Flaum: Q. Mr. Witness, how much of this [251] juice collections which you made during this period were retained by yourself and how much turned over to your superiors?

A. I refuse to testify on the grounds that I might incriminate myself.

Co-Chairman Laughlin: The Chair orders and directs you to answer the question, sir.

The Witness: A. I refuse to answer on the grounds that I may tend to incriminate myself.

14 Mr. Flaum: Q. Mr. Witness, were you present at the hearings of this Commission held in January of 1966, at which time certain witnesses testified before

the Commission concerning their payment of juice loans?

A. I refuse to testify on the grounds that I might incriminate myself.

Co-Chairman Laughlin: The Chair orders and directs you to answer the question, sir.

The Witness: A. I refuse to testify on the grounds that I might tend to incriminate myself.

15 Mr. Flaum: Q. Mr. Witness, were you present at the time that a witness identified as Mr. Boyd testified that he was introduced to you by the Grieco brothers, and that through you he obtained a juice loan?

A. I refuse to answer on the grounds that I might
[252] incriminate myself.

Co-Chairman Laughlin: The Chair orders and directs you to answer the question, sir.

A. I refuse to testify on the grounds that I might incriminate myself.

16 Mr. Flaum: Q. Mr. Witness, are you involved in a business organization known as the Yogi Bear Drive-ins?

A. I refuse to answer on the grounds that I might tend to incriminate myself.

Co-Chairman Laughlin: The Chair orders and directs you to answer the question, sir.

A. I refuse to testify on the grounds that I may incriminate myself.

17 Mr. Flaum: Q. Are your associates in that enterprise one Bruce Carman and one Leo Netzel?

A. I refuse to answer on the grounds that I might incriminate myself.

Co-Chairman Laughlin: The Chair orders and directs you to answer the question, sir.

The Witness: A. I refuse to testify on the grounds that I might incriminate myself.

18 Mr. Flaum: Q. Mr. Witness, is Willie Messino a silent partner of that enterprise?

A. I refuse to answer on the grounds that I may [253] tend to incriminate myself.

Co-Chairman Laughlin: The Chair orders and directs you to answer the question, sir.

The Witness: A. I refuse to testify on the grounds that might incriminate myself.

19 Mr. Flaum: Q. Mr. Witness, are you picked up at your residence every morning by Joseph Gagliano?

A. I refuse to testify on the grounds that I might incriminate myself.

Co-Chairman Laughlin: The Chair orders and directs you to answer the question, sir.

The Witness: A. I refuse to testify on the grounds that I might incriminate myself.

20 Mr. Flaum: Q. Mr. Witness, did you file an income tax return for the years 1964, '65 and '66?

A. I refuse to testify on the grounds that I might incriminate myself.

Co-Chairman Laughlin: The Chair orders and directs you to answer the question, sir.

The Witness: A. I refuse to testify on the grounds that I might incriminate myself.

21 Mr. Flaum: Q. Mr. Witness, are you now or have you ever been connected with a business known as Moon's Sandwich Shop, located at Chicago and Hamlin [254] Avenue, in Chicago?

A. I refuse to testify on the grounds that I might incriminate myself.

Co-Chairman Laughlin: The Chair orders and directs you to answer the question, sir.

The Witness: A. I refuse to answer on the grounds that I might incriminate myself.

22 Mr. Flaum: Q. Mr. Witness, were these premises one of the collection stations which you maintained for picking up your juice loans?

A. I refuse to answer on the grounds that I might incriminate myself.

Co-Chairman Laughlin: The Chair orders and directs you to answer the question, sir.

The Witness: A. I refuse to answer on the grounds that I might incriminate myself.

23 Mr. Flaum: Q. Mr. Witness, have you ever been connected in a business fashion with Mr. Lucky's Tavern at 7800 Belmont, in Elmwood Park, Illinois?

A. I refuse to testify on the grounds that I might incriminate myself.

Co-Chairman Laughlin: The Chair orders and directs you to answer the questions, sir.

The Witness: A. I refuse to testify on the grounds
[255] that I might incriminate myself.

24 Mr. Flaum: Q. Mr. Witness, was that one of your collection stations?

A. I refuse to testify on the grounds that I might incriminate myself.

Co-Chairman Laughlin: The Chair orders and directs you to answer the question, sir.

The Witness: A. I refuse to testify on the grounds that I might incriminate myself.

25 Mr. Flaum: Q. Mr. Witness, did you also require some of your juice customers to meet you in the parking lot of that restaurant?

A. I refuse to answer on the grounds that I might tend to incriminate myself.

Co-Chairman Laughlin: The Chair orders and directs you to answer the question, sir.

The Witness: A. I refuse to testify on the grounds that I might incriminate myself.

26 Mr. Flaum: Q. Mr. Witness, have you been connected with a business known as the Chicago Linoleum and Tile Company at 3816 West Chicago Avenue, in Chicago?

A. I refuse to testify on the grounds that I might incriminate myself.

Co-Chairman Laughlin: The Chair orders and di-
[256] rects you to answer the questions, sir.

The Witness: A. I refuse to testify on the grounds that I might incriminate myself.

27 Mr. Flaum: Q. Mr. Witness, was this one of your collection stops?

A. I refuse to testify on the grounds that I might incriminate myself.

Co-Chairman Laughlin: The Chair orders and directs you to answer the question, sir.

The Witness: A. I refuse to testify on the grounds that I might incriminate myself.

28 Mr. Flaum: Q. Mr. Witness, was the Stefano's Restaurant, 2000 West Chicago Avenue, another of your collection stops?

A. I refuse to testify on the grounds that I might incriminate myself.

Co-Chairman Laughlin: The Chair orders and directs you to answer the questions, sir.

The Witness: A. I refuse to testify on the grounds that I might incriminate myself.

29 Mr. Flaum: Q. Mr. Witness, did you ever make collections of $200 a week from one Joseph Gillespie on a loan of $2,900?

A. I refuse to testify on the grounds that I might
[257] incriminate myself.

Co-Chairman Laughlin: The Chair orders and directs you to answer the question, sir.

The Witness: A. I refuse to testify on the grounds that I might incriminate myself.

30 Mr. Flaum: Q. Mr. Witness, did you make collections of $2,000 a week from a person known as "Doc" on an original loan of $20,000?

A. I refuse to testify on the grounds that I might incriminate myself.

Co-Chairman Laughlin: The Chair orders and directs you to answer the question, sir.

The Witness: A. I refuse to testify on the grounds that I might incriminate myself.

31 Mr. Flaum: Q. Mr. Witness, do you know a Bruce Carman?

A. I refuse to testify on the grounds that I might incriminate myself.

Co-Chairman Laughlin: The Chair orders and directs you to answer the question, sir.

The Witness: A. I refuse to testify on the grounds that I might incriminate myself.

32 Mr. Flaum: Q. Mr. Witness, did you collect $600 a month from him on a $7,300 juice loan?

[258] A. I refuse to testify on the grounds that I might incriminate myself.

Co-Chairman Laughlin: The Chair orders and directs you to answer the question, sir.

The Witness: A. I refuse to testify on the grounds that I might incriminate myself.

33 Mr. Flaum: Q. Mr. Witness, do you know a Charles Tabbert, T-a-b-b-e-r-t?

A. I refuse to testify on the grounds that I might incriminate myself.

Co-Chairman Laughlin: The Chair orders and directs you to answer the question, sir.

The Witness: A. I refuse to testify on the grounds that I might incriminate myself.

34 Mr. Flaum: Q. Did you loan $7,000 to Charles Tabbert on or about February 21, 1963?

A. I refuse to testify on the grounds that I might incriminate myself.

Co-Chairman Laughlin: The Chair orders and directs you to answer the question, sir.

The Witness: A. I refuse to testify on the grounds that I might incriminate myself.

35 Mr. Flaum: Q. Mr. Witness, how much money were you paid for your services as a collector?

[259] A. I refuse to testify on the grounds that I might incriminate myself.

Co-Chairman Laughlin: The Chair orders and directs you to answer the question, sir.

The Witness: A. I refuse to testify on the grounds that I might incriminate myself.

36 Mr. Flaum: Q. Mr. Witness, were you paid the sums by Willie Messino?

A. I refuse to testify on the grounds that I might incriminate myself.

Co-Chairman Laughlin: The Chair orders and directs you to answer the question, sir.

The Witness: A. I refuse to testify on the grounds that I might incriminate myself.

37 Mr. Flaum: Q. Were you paid these sums by Joseph Gagliano?

A. I refuse to testify on the grounds that I might incriminate myself.

Co-Chairman Laughlin: The Chair orders and directs you to answer the questions, sir.

The Witness: A. I refuse to testify on the grounds that I might incriminate myself.

38 Mr. Flaum: Q. Mr. Witness, were you paid on a salary or commission basis?

[260] A. I refuse to testify on the grounds that I might incriminate myself.

Co-Chairman Laughlin: The Chair orders and directs you to answer the questions, sir.

The Witness: I refuse to testify on the grounds that I might incriminate myself.

39 Mr. Flaum: Q. Mr. Witness, during the period of January 1, 1963 to date what has been your gainful occupation?

A. I refuse to testify on the grounds that I might incriminate myself.

Co-Chairman Laughlin: The Chair orders and directs you to answer the question, sir.

The Witness: A. I refuse to testify on the grounds that I might incriminate myself.

40 Mr. Flaum: Q. Mr. Witness, have you been frequenting the Bar Nazionale located on 3854 West Chicago Avenue?

A. I refuse to testify on the grounds that I might incriminate myself.

Co-Chairman Laughlin: The Chair orders and directs you to answer the question, sir.

The Witness: A. I refuse to testify on the grounds that I might incriminate myself.

41 Mr. Flaum: Q. Mr. Witness, did you meet at that
[261] place with Joseph, Joe "Gags," Gagliano?

A. I refuse to testify on the grounds that I might incriminate myself.

Co-Chairman Laughlin: The Chair orders and directs you to answer the question, sir.

The Witness: A. I refuse to testify on the grounds that I might incriminate myself.

42 Mr. Flaum: Q. Mr. Witness, a Mr. White testified at our previous hearings that he made several loans from Willie Messino which he had to pay interest of ten percent a week until he was able to pay the full principal in a lump sum. Mr. White further testified, in the transcript of our public hearings, that on some of the occasions when he made payment to Messino, Messino was accompanied by yourself and Albert Sarno. Is that true?

A. I refuse to testify on the grounds that I might incriminate myself?

Co-Chairman Laughlin: The Chair orders and directs you to answer the question, sir.

The Witness: A. I refuse to testify on the grounds that I might incriminate myself.

43 Mr. Flaum: Q. Mr. Witness, do you know Albert Sarno?

A. I refuse to testify on the grounds that I might incriminate myself.

[262] Co-Chairman Laughlin: The Chair orders and directs you to answer the question, sir.

The Witness: A. I refuse to testify on the grounds that I might incriminate myself.

44 Mr. Flaum: Q. Are you associated in any business venture with Mr. Albert Sarno?

A. I refuse to answer on the grounds that I might incriminate myself.

Co-Chairman Laughlin: The Chair orders and directs you to answer the question, sir.

The Witness: I refuse to testify on the grounds that I might incriminate myself.

45 Mr. Flaum: Q. Mr. Witness, are you associated in any business venture with Fiore Bucciere?

A. I refuse to testify on the grounds that I might incriminate myself.

Co-Chairman Laughlin: The Chair orders and directs you to answer the question, sir.

The Witness: A. I refuse to testify on the grounds that I might incriminate myself.

46 Mr. Flaum: Q. Mr. Witness, are you associated in any business with Frank Bucciere?

A. I refuse to testify on the grounds that I might incriminate myself.

[263] Co-Chairman Laughlin: The Chair orders and directs you to answer the question, sir.

The Witness: A. I refuse to testify on the grounds that I might incriminate myself.

47 Mr. Flaum: Q. Mr. Witness, are you a citizen of the United States?

A. I refuse to testify on the grounds that I might incriminate myself.

Co-Chairman Laughlin: The Chair orders and directs you to answer the question, sir.

The Witness: A. I refuse to testify on the grounds that I might incriminate myself.

48 Mr. Flaum: Q. Mr. Witness, do you know a man named Ray Finnerman, F-i-n-n-e-r-m-a-n?

A. I refuse to testify on the grounds that I might incriminate myself.

Co-Chairman Laughlin: The Chair orders and directs you to answer the question, sir.

The Witness: A. I refuse to testify on the grounds that I might incriminate myself.

49 Mr. Flaum: Q. Mr. Witness, did you ever extend any loan to him?

A. I refuse to testify on the grounds that I might incriminate myself.

[264] Co-Chairman Laughlin: The Chair orders and directs you to answer the question, sir.

The Witness: A. I refuse to testify on the grounds that I might incriminate myself.

50 Mr. Flaum: Q. Mr. Witness, did any one ever ask you to collect money from him?

A. I refuse to testify on the grounds that I might incriminate myself.

Co-Chairman Laughlin: The Chair orders and directs you to answer the question, sir.

The Witness: A. I refuse to answer on the grounds that I might incriminate myself.

51 Mr. Flaum: Q. Mr. Witness, do you know that he left his home in Skokie and went to the State of Texas?

A. I refuse to answer on the grounds that I might incriminate myself.

Co-Chairman Laughlin: The Chair orders and directs you to answer the question, sir.

The Witness: I refuse to testify on the grounds that I might incriminate myself.

52 Mr. Flaum: Q. Mr. Witness, do you know the reason why Mr. Finnerman went to Texas?

A. I refuse to testify on the grounds that I might incriminate myself.

[265] Co-Chairman Laughlin: The Chair orders and directs you to answer the question, sir.

The Witness: A. I refuse to answer on the grounds that I may tend to incriminate myself.

[272] Pursuant to the order entered on January 30, 1969, Defendant, Albert Sarno, appeared before the Commission on the 28th day of February, 1969, and the following questions were asked and answers given:

INTERROGATION OF ALBERT SARNO.

Mr. Zagel: Q. State your full name, please?

A. Albert Sarno.

Q. What is your present place of residence?

A. I refuse to answer on the grounds that my answer may tend to incriminate me.

Co-Chairman Laughlin: The Chair orders and directs you to answer the question, sir.

The Witness: A. I refuse to answer on the grounds that my answer may tend to incriminate me.

Mr. Zagel: Q. When and where were you born?

A. I refuse to answer on the grounds that my answer may tend to incriminate me.

Co-Chairman Laughlin: The Chair orders and directs you to answer the question, sir.

The Witness: A. I refuse to answer on the grounds that my answer may tend to incriminate me.

1 Mr. Zagel: Q. What is your present occupation?

A. I refuse to answer on the grounds that my
[273] answer may tend to incriminate me.

Co-Chairman Laughlin: The Chair orders and directs you to answer the question, sir.

The Witness: A. I refuse to answer on the grounds that my answer may tend to incriminate me.

2 Mr. Zagel: Q. Were you a member of the Chicago Police Department from February 16, 1958 to March 1961?

A. I refuse to answer on the grounds that my answer may tend to incriminate me.

Co-Chairman Laughlin: The Chair orders and directs you to answer the question, sir.

The Witness: A. I refuse to answer on the grounds that my answer may tend to incriminate me.

3 Mr. Zagel: Q. Did you resign from the Chicago Police Department or were you discharged after charges?

A. I refuse to answer on the grounds that my answer may tend to incriminate me.

Co-Chairman Laughlin: The Chair orders and directs you to answer the question, sir.

The Witness: A. I refuse to answer on the grounds that my answer may tend to incriminate me.

4 Mr. Zagel: Q. Were you arrested by the Federal Bureau of Investigation on April 2, 1962 for theft from interstate shipments?

[274] A. I refuse to answer on the grounds that my answer may tend to incriminate me.

Co-Chairman Laughlin: The Chair orders and directs you to answer the question, sir.

The Witness: A. I refuse to answer on the grounds that my answer may tend to incriminate me.

Mr. Zagel: Q. Were you arrested on December 9, 1963 by the Chicago Police Department on charges of kidnapping, assault and robbery of one Joseph Weisphal?

A. I refuse to answer on the grounds that my answer may tend to incriminate me.

Co-Chairman Laughlin: The Chair orders and directs you to answer the question, sir.

The Witness: A. I refuse to answer on the grounds that my answer may tend to incriminate me.

Mr. Zagel: Q. Were you a juice or usurious interest collector for Willie Messino?

A. I refuse to answer on the grounds that my answer may tend to incriminate me.

Co-Chairman Laughlin: The Chair orders and directs you to answer the question, sir.

The Witness: A. I refuse to answer on the grounds that my answer may tend to incriminate me.

Mr. Zagel: Q. Did you make loans to various per-
[275] sons on behalf of Willie Messino and Joseph Gagliano?

A. I refuse to answer on the grounds that my answer may tend to incriminate me.

Co-Chairman Laughlin: The Chair orders and directs you to answer the question, sir.

The Witness: A. I refuse to answer on the grounds that my answer may tend to incriminate me.

Mr. Zagel: Q. Was it your practice to collect ten percent weekly interest on these loans?

A. I refuse to answer on the grounds that my answer may tend to incriminate me.

Co-Chairman Laughlin: The Chair orders and directs you to answer the question, sir.

The Witness: A. I refuse to answer on the grounds that my answer may tend to incriminate me.

9 Mr. Zagel: Q. Didn't you in fact make some loans on your own without the approval of Mr. Messino and Mr. Gagliano?

A. I refuse to answer on the grounds that my answer may tend to incriminate me.

Co-Chairman Laughlin: The Chair orders and directs you to answer the question, sir.

The Witness: A. I refuse to answer on the grounds that my answer may tend to incriminate me.

10 [276] Mr. Zagel: Q. Did you use as your collection headquarters Moon's Sandwich Shop, formerly located on Chicago and Hamlin Avenue, in Chicago?

A. I refuse to answer on the grounds that my answer may tend to incriminate me.

Co-Chairman Laughlin: The Chair orders and directs you to answer the question, sir.

The Witness: A. I refuse to answer on the grounds that my answer may tend to incriminate me.

11 Mr. Zagel: Q. Are you still a juice collector for Willie Messino and Joe Gagliano?

A. I refuse to answer on the grounds that my answer may tend to incriminate me.

Co-Chairman Laughlin: The Chair orders and directs you to answer the question, sir.

The Witness: A. I refuse to answer on the grounds that my answer may tend to incriminate me.

12 Mr. Zagel: Q. At what places in Cook County have your juice customers met you to make their weekly payments?

A. I refuse to answer on the grounds that my answer may tend to incriminate me.

Co-Chairman Laughlin: The Chair orders and directs you to answer the question, sir.

[277] The Witness: A. I refuse to answer on the grounds that my answer may tend to incriminate me.

13 Mr. Zagel: Q. Were you present at these hearings in January, 1966, when a witness, Mr. White, testified that he made juice payments to Willie Messino in your presence?

A. I refuse to answer on the grounds that my answer may tend to incriminate me.

Co-Chairman Laughlin: The Chair orders and directs you to answer the question, sir.

The Witness: A. I refuse to answer on the grounds that my answer may tend to incriminate me.

14 Mr. Zagel: Q. Were you present at these hearings when, as shown by the public record, the witness Mr. Black testified that he borrowed money from you directly and paid interest of $10 per hundred per week?

A. I refuse to answer on the grounds that my answer may tend to incriminate me.

Co-Chairman Laughlin: The Chair orders and directs you to answer the question, sir.

The Witness: A. I refuse to answer on the grounds that my answer may tend to incriminate me.

15 Mr. Zagel: Q. At one time when Mr. Black became delinquent in his loan, did you visit his home and make certain threats and allegations to his mother, [278] thereby frightening her?

A. I refuse to answer on the grounds that my answer may tend to incriminate me.

Co-Chairman Laughlin: The Chair orders and directs you to answer the question, sir.

The Witness: A. I refuse to answer on the grounds that my answer may tend to incriminate me.

16 Mr. Zagel: Q. Did Mr. Black make his payment to you at Mr. Lucky's in the 7800 block west on Belmont, in Elmwood Park?

A. I refuse to answer on the grounds that my answer may tend to incriminate me.

Co-Chairman Laughlin: The Chair orders and directs you to answer the question, sir.

The Witness: A. I refuse to answer on the grounds that my answer may tend to incriminate me.

17 Mr. Zagel: Q. On one occasion did you exhibit a pistol to Mr. Black and wave it under his face and say to him, "You know what will happen if you don't pay me on time"?

A. I refuse to answer on the grounds that my answer may tend to incriminate me.

Co-Chairman Laughlin: The Chair orders and directs you to answer the question, sir.

[279] The Witness: A. I refuse to answer on the grounds that my answer may tend to incriminate me.

18 Mr. Zagel: Q. Did you make a loan to a Mr. James, who testified in the public hearings that he borrowed money from you at eight percent per week?

A. I refuse to answer on the grounds that my answer may tend to incriminate me.

Co-Chairman Laughlin: The Chair orders and directs you to answer the question, sir.

The Witness: A. I refuse to answer on the grounds that my answer may tend to incriminate me.

19 Mr. Zagel: Q. When he fell behind in his payments, did you then raise his interest to ten percent a week, and no credit on principal?

A. I refuse to answer on the grounds that my answer may tend to incriminate me.

Co-Chairman Laughlin: The Chair orders and directs you to answer the question, sir.

The Witness: A. I refuse to answer on the grounds that my answer may tend to incriminate me.

20 Mr. Zagel: Q. Did you report to Willie Messino that Mr. James failed to make his payments on time?

A. I refuse to answer on the grounds that my answer may tend to incriminate me.

[279A] Co-Chairman Laughlin: The Chair orders and directs you to answer the question, sir.

The Witness: A. I refuse to answer on the grounds that my answer may tend to incriminate me.

21 Mr. Zagel: Q. When you made this report, did you then accompany Willie Messino to Mr. James' home and were you present at the time that Mr. Messino threatened Mr. James with a baseball bat?

A. I refuse to answer on the grounds that my answer may tend to incriminate me.

Co-Chairman Laughlin: The Chair orders and directs you to answer the question, sir.

The Witness: A. I refuse to answer on the grounds that my answer may tend to incriminate me.

22 Mr. Zagel: Q. Is Mr. James still hiding out from you as he testified here in these public hearings?

A. I refuse to answer on the grounds that my answer may tend to incriminate me.

Co-Chairman Laughlin: The Chair orders and directs you to answer the question, sir.

The Witness: A. I refuse to answer on the grounds that my answer may tend to incriminate me.

23 Mr. Zagel: Q. Does your brother, Alfonse Sarno, own Mr. Lucky's Tavern or is he the licensee of that
[280] premises?

A. I refuse to answer on the grounds that my answer may tend to incriminate me.

Co-Chairman Laughlin: The Chair orders and directs you to answer the question, sir.

The Witness: A. I refuse to answer on the grounds that my answer may tend to incriminate me.

24 Mr. Zagel: Q. Have you used the Red Steer Restaurant, at 8800 West Grand Avenue, River Grove, as a place to receive juice payments from your customers?

A. I refuse to answer on the grounds that my answer may tend to incriminate me.

Co-Chairman Laughlin: The Chair orders and directs you to answer the question, sir.

The Witness: A. I refuse to answer on the grounds that my answer may tend to incriminate me.

25 Mr. Zagel: Q. Have you met juice customers at Sam and Sleepy's Tavern at 3800 West Chicago Avenue?

A. I refuse to answer on the grounds that my answer may tend to incriminate me.

Co-Chairman Laughlin: The Chair orders and directs you to answer the question, sir.

The Witness: A. I refuse to answer on the grounds that my answer may tend to incriminate me.

26 [281] Mr. Zagel: Q. Did you take your orders directly from Messino or from Joseph Gagliano?

A. I refuse to answer on the grounds that my answer may tend to incriminate me.

Co-Chairman Laughlin: The Chair orders and directs you to answer the question, sir.

The Witness: A. I refuse to answer on the grounds that my answer may tend to incriminate me.

27 Mr. Zagel: Q. Do you know Jack Cerone?

A. I refuse to answer on the grounds that my answer may tend to incriminate me.

Co-Chairman Laughlin: The Chair orders and directs you to answer the question, sir.

The Witness: A. I refuse to answer on the grounds that my answer may tend to incriminate me.

28 Mr. Zagel: Q. Are you employed by him in any way?

A. I refuse to answer on the grounds that my answer may tend to incriminate me.

Co-Chairman Laughlin: The Chair orders and directs you to answer the question, sir.

The Witness : A. I refuse to answer on the grounds that my answer may tend to incriminate me.

29 Mr. Zagel: Q. Have you been collecting $80 a week from one Ed Bach of Laverne Avenue in Chicago [282] on an original loan of $480?

A. I refuse to answer on the grounds that my answer may tend to incriminate me.

Co-Chairman Laughlin: The Chair orders and directs you to answer the question, sir.

The Witness: A. I refuse to answer on the grounds that my answer may tend to incriminate me.

30 Mr. Zagel: Q. Were you formerly collecting $750 a month from one Larry Greenbaum on an original loan of $5,000?

A. I refuse to answer on the grounds that my answer may tend to incriminate me.

Co-Chairman Laughlin: The Chair orders and directs you to answer the question, sir.

The Witness: A. I refuse to answer on the grounds that my answer may tend to incriminate me.

31 Mr. Zagel: Q. Did Greenbaum leave town to avoid his juice payments to you?

A. I refuse to answer on the grounds that my answer may tend to incriminate me.

Co-Chairman Laughlin: The Chair orders and directs you to answer the question, sir.

The Witness: A. I refuse to answer on the grounds that my answer may tend to incriminate me.

32 [283] Mr. Zagel: Q. Were you collecting $100 a week from one Philip Marzarello on an original $1,500 loan?

A. I refuse to answer on the grounds that my answer may tend to incriminate me.

Co-Chairman Laughlin: The Chair orders and directs you to answer the question, sir.

The Witness: A. I refuse to answer on the grounds that my answer may tend to incriminate me.

33 Mr. Zagel: Q. Is it true that he has escaped from the city to avoid making further juice payments to you?

A. I refuse to answer on the grounds that my answer may tend to incriminate me.

Co-Chairman Laughlin: The Chair orders and directs you to answer the question, sir.

The Witness: A. I refuse to answer on the grounds that my answer may tend to incriminate me.

34 Mr. Zagel: Q. Did you make a collection of $100 a week on principal and $100 a week on interest for 100 weeks from George and Peter Menenexis?

A. I refuse to answer on the grounds that my answer may tend to incriminate me.

Co-Chairman Laughlin: The Chair orders and directs you to answer the question, sir.

The Witness: A. I refuse to answer on the grounds
[284] that my answer may tend to incriminate me.

Mr. Zagel: Q. Do you know Mike Castaldo, who formerly owned the "One Step Beyond" tavern located at Grand Avenue and Oak Park Avenue in Chicago?

A. I refuse to answer on the grounds that my answer may tend to incriminate me.

Co-Chairman Laughlin: The Chair orders and directs you to answer the question, sir.

The Witness: A. I refuse to answer on the grounds that my answer may tend to incriminate me.

Mr. Zagel: Q. Do you know Joe Donzanelli?

A. I refuse to answer on the grounds that my answer may tend to incriminate me.

Co-Chairman Laughlin: The Chair orders and directs you to answer the question, sir.

The Witness: A. I refuse to answer on the grounds that my answer may tend to incriminate me.

Mr. Zagel: Q. Was Donzanelli the liquor licensee of the "One Step Beyond" tavern?

A. I refuse to answer on the grounds that my answer may tend to incriminate me.

Co-Chairman Laughlin: The Chair orders and directs you to answer the question, sir.

The Witness: A. I refuse to answer on the grounds
[285] that my answer may tend to incriminate me.

Mr. Zagel: Q. Did you collect a total of $2,000 on

an original loan of $1,700 from Dave Wasserman of Birchwood Avenue in Chicago?

A. I refuse to answer on the grounds that my answer may tend to incriminate me.

Co-Chairman Laughlin: The Chair orders and directs you to answer the question, sir.

The Witness: A. I refuse to answer on the grounds that my answer may tend to incriminate me.

39 Mr. Zagel: Q. Did you file an income tax return with the Federal Government for the years 1964, 1965 and 1966?

A. I refuse to answer on the grounds that my answer may tend to incriminate me.

Co-Chairman Laughlin: The Chair orders and directs you to answer the question, sir.

The Witness: A. I refuse to answer on the grounds that my answer may tend to incriminate me.

40 Mr. Zagel: Q. What lines of gainful employment have you followed since you left the Chicago Police Department?

A. I refuse to answer on the grounds that my answer may tend to incriminate me.

[286] Co-Chairman Laughlin: The Chair orders and directs you to answer the question, sir.

The Witness: A. I refuse to answer on the grounds that my answer may tend to incriminate me.

41 Mr. Zagel: Mr. Sarno, I am holding in my hand a signed order signed by Judge Edward J. Egan on January 30, 1969, and in pertinent part it reads:

> "The Court orders each of the said respondent-defendants, to-wit, Chris Cardi, Patsy Ricciardi and Albert Sarno, are hereby ordered to be and

appear before the said Commission on such date or dates and at such place or places as the said Commission may direct, provided that at least five days' written notice be served on their respective attorneys and to then and there answer the questions previously propounded to him and attached to the petition.

"The Court further orders that each of the said defendant-respondents be and he is hereby released from all liability to be prosecuted or punished on acts of any manner to which he shall testify before the said Commission except for perjury or contempt of court by the said respondent-defendant before the said Commission."

2 [287] Q. Now, the questions that you have just been asked are all questions which you were previously asked to which the court order that I have just read refers, and I think that you, Mr. Witness, should know that the counsel for the Commission will recommend that the Commission proceed against you in the Circuit Court of Cook County and ask that the Court hold you in contempt of court and remit you to the jail for your refusal to answer these questions.

In light of that fact, do you wish to answer any of the questions that I have previously asked you today?

The Witness: A. I refuse to answer on the grounds that my answer may tend to incriminate me.

292-296] On April 7, 1969, the Commission filed a motion, as to each defendant, to show cause why he should not be held in contempt of court for failing to answer the questions referred to in the order of January 30, 1969, and propounded to him before the Commission on February 28, 1969.

304-308] On April 7, 1969, the Court entered a rule to show cause on Albert Sarno and Chris Cardi to show

cause why they should not be held in contempt of court for failing to comply with the previous order of court.

[308-314] On May 6, 1969, defendants filed a verified answer to the motion to show cause alleging the same affirmative defenses previously stated in defendants' motion to dismiss or in the alternative to strike previously referred to as being filed by defendants in answer to the Commission's motion to appear before the Commission and answer such questions as may be put to each of them, including but not limited to questions attached as exhibits (A. 19-22).

[320-328] On May 9, 1969, the Court entered an order finding Defendants, Albert Sarno and Chris Cardi in contempt of court and sentenced each of the defendants to six (6) months in the County Jail. The order recited that (1) Chris Cardi and Albert Sarno were guilty of wilful contempt of court; (2) that Chris Cardi and Albert Sarno shall be committed to the County Jail for a period of six (6) months; and (3) that the Clerk of the Circuit Court of Cook County issue a mittimus directing that Albert Sarno and Chris Cardi be taken into custody by the Sheriff and be committed to the County Jail.

ILLINOIS SUPREME COURT OPINION.

On May 27, 1970, the Illinois Supreme Court filed the following opinion, reported at 45 Ill. 2d 473 (1970):

ILLINOIS CRIME INVESTIGATING COMMISSION, *Appellee*, vs. ALBERT SARNO, ET AL., *Appellants*. — No. 42422 — Appeal from Circuit Court, Cook County

MR. JUSTICE CREBS delivered the opinion of the court:

On February 8, 1968, the circuit court of Cook County ordered the defendants to appear before the Illinois Crime Commission and answer questions put to them by the Commission which was then investigating "juice" rackets. The defendants appeared before the Commission but invoked the fifth amendment to all questions asked. On March 21, 1968 the Commission moved the circuit court to enter an order pursuant to section 14 of the Illinois Crime Investigating Commission Act (Ill. Rev. Stat. 1967, ch. 38, par. 203-14) releasing the defendants from all liability to be prosecuted for any testimony they might give before the Commission and compelling the defendants to appear before the Commission and answer such questions as may be put to them. On January 30, 1969, the circuit court granted the motion.

Pursuant to the court's order, defendants appeared before the Commission but again invoked the fifth amendment. On May 9, 1969 the court entered judgment finding defendants in contempt of court and sentenced them to a term of six months in jail.

Defendants appeal from the judgment finding them guilty of contempt of court on several grounds. The first is that the circuit court was without jurisdiction to grant an express order of immunity under section 203-14 of the Illinois Crime Investigating Commission Act. Hence, the defendants argue, the entire order of the circuit court was void. While we agree that nowhere in section 203-14 is the circuit court given the express power to grant immunity to the defendants, we cannot agree that the order of the circuit court was void. The statute clearly gives the circuit court the power to compel the defendants to appear before the Commission and answer questions. The fact that the court also granted the defendants immunity would not deprive it of jurisdiction to order the defendants to appear before the Commission and answer its questions. By statute, immunity would attach as soon as the defendants would comply with the order and answer questions.

Defendants next argue that the immunity protection of section 203-14 is not as broad in scope as the fifth amendment of the United States constitution. Therefore, the defendants claim that they were justified in invoking the fifth amendment a second time before the Commission. Defendants rely on *Hoffman* v. *United States,* 341 U. S. 479, 95 L. Ed. 1118, 71 S. Ct. 814, in support of their contention. That case held a witness is protected by the fifth amendment from compelled testimony unless "* * * it is perfectly clear, from a careful consideration of all the circumstances in the case that the witness is mistaken, and that the answer cannot possibly have such tendency to incriminate". Defendants contrast this language with section 203-14 which reads:

"The court shall not order any such person to testify or produce evidence if it reasonably appears to the court that such testimony or evidence, documentary or otherwise, would subject such witness to an indictment, information or prosecution (except for perjury committed in the giving of such testimony or the producing of such evidence) under the laws of another State or of the United States."

The defendants assert the "reasonably certain" standard in section 203-14 is narrower in scope than the "perfectly clear" standard in *Hoffman* v. *United States.* Fifth amendment rights being guaranteed by the Federal constitution, the construction placed upon these rights by the United States Supreme Court is the highest authority and is binding upon these defendants. By its decision in *Murphy* v. *Waterfront Commission of New York Harbor,* 378 U. S. 52, 12 L. Ed. 2d 678, 84 S. Ct. 1594, that court has made it perfectly clear that the full scope of fifth amendment protection is granted to any witness who is compelled to testify. In that case the court, being faced with the issue whether "'* * * one jurisdiction within our federal structure may compel a witness, whom it has immunized from prosecution under its laws, to give testimony which might then be used to convict him of a crime against another such jurisdiction", held that "'* * * the constitutional privilege against self-incrimination protects a state witness against incrimination under federal as well as state law * * *'". L. Ed. 2d at pp. 680, 694.

We find no merit in defendants' third contention that the State did not affirmatively demonstrate to the defendants that immunity from prosecution was available to them. The Commission, in its motion to have

the defendants answer questions put to them by the Commission, specifically mentioned section 203-14. That section grants immunity to the defendants from further prosecutions. That this immunity is co-extensive with the fifth amendment has been established by the holding of *Murphy* v. *Waterfront Commission*. The defendants demonstrated that they were well aware of the immunity available to them in their motion to dismiss the Commission's motion where they cited both section 203-14 and the *Murphy* decision.

The defendants' final argument is that because the information upon which some questions before the Commission was based was obtained from records which a court had previously suppressed, the questions put to them were improper. That argument overlooks the fact that the Crime Commission hearings do not constitute criminal proceedings of any kind. Rather the Commission is an arm of the legislature directed to investigate organized crime. For these reasons the motion to remand for hearing, which was taken with the case, is denied.

Judgment affirmed.

CERTIORARI GRANTED.

No. 565 SARNO v. ILLINOIS CRIME INVESTIGATING COMMISSION.

The petition for writ of certiorari is granted limited to questions 1 and 3 as set forth in the petition which read as follows:

"1. Must the State affirmatively demonstrate to respondents, when testifying pursuant to the Illinois Immunity Statute, that an immunity, as broad in scope as the Fifth Amendment, is available and applicable to them?

3. Assuming the immunity statute was not as broad as the Fifth Amendment, as far as future state prosecutions are concerned, may a person plead the Fifth Amendment when it is evident, from the implication of the questions in the setting in which they are asked, that responsive answers to the questions might be dangerous because injurious disclosure could result in future state prosecutions?"

Supreme Court of the United States

No. 565-------, *October Term, 19* 70

Albert Sarno and Chris Cardi,

Petitioners,

v.

Illinois Crime Investigating Commission

ORDER ALLOWING CERTIORARI. Filed March 1, 1971

The petition herein for a writ of certiorari to the Supreme Court of the State of Illinois is granted limited to questions 1 and 3 as set forth in the petition which read as follows:

"1. Must the State affirmatively demonstrate to respondents, when testifying pursuant to the Illinois Immunity Statute, that an immunity, as broad in scope as the Fifth Amendment, is available and applicable to them?

"3. Assuming the immunity statute was not as broad as the Fifth Amendment, as far as further State prosecutions are concerned, may a person plead the Fifth Amendment when it is evident, from the implication of the questions in the setting in which they are asked, that responsive answers to the questions might be dangerous because injurious disclosure could result in future State prosecutions?"